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7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 PERPETUA MARY THOMAS, on behalf of
10 herself and all others similarly situated;

Case No.:

11 Plaintiff,

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FAIR DEBT
COLLECTION PRACTICES ACT**

12 vs.

JURY DEMANDED

13 RICHLAND HOLDINGS, INC. DBA
14 ACCTCORP OF SOUTHERN NEVADA, a
15 Nevada corporation, and DONNA ARMENTA,
15 ESQ an individual.

16 Defendant.

17 **COMPLAINT**

19 Plaintiff, PERPETUA MARY THOMAS, (hereinafter referred to as “PLAINTIFF”), on
20 behalf of herself and all others similarly situated, by and through undersigned counsel, alleges upon
21 knowledge as to herself and her own acts, and upon information and belief as to all other matters,
22 and brings this complaint against Defendant, RICHLAND HOLDINGS, INC. DBA ACCTCORP
23 OF SOUTHERN NEVADA (hereinafter referred to as “RH”) and Defendant DONNA ARMENTA
24 (hereinafter referred to as “DA”) and jointly referred to as “DEFENDANTS” and in support thereof
25 alleges the following:

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27

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PRELIMINARY STATEMENT

1. PLAINTIFF brings this action for statutory damages arising from DEFENDANTS violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to 15 U.S.C. § 1692k(d).
3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claim occurred in this judicial district.

PARTIES

4. PLAINTIFF PERPETUA MARY THOMAS is a natural person residing in Las Vegas, Nevada.

5. PLAINTIFF is a “consumer” as defined in the FDCPA at 15 U.S.C. § 1692a(3).

6. PLAINTIFF allegedly owes a (past due) consumer “debt” as defined by 15 U.S.C. § 1692a(5).

7. DEFENDANT RICHLAND HOLDINGS, INC. DBA ACCTCORP OF SOUTHERN NEVADA, is a Nevada corporation, which regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another and is, thus, a “debt collector” as defined by 15 U.S.C. § 1692a(6).

8. DEFENDANT DONNA ARMENTA, ESQ is a Nevada attorney who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another and is, thus, a “debt collector” as defined by 15 U.S.C. § 1692a(6).

STATEMENT OF FACTS

9. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1 through 8 inclusive, above.

10. PLAINTIFF retained Gerety & Associates to prepare her individual tax return.

1 11. Gerety & Associates claimed a payment deficiency and assigned the alleged debt to
2 DEFENDANT RICHLAND HOLDINGS, INC. DBA ACCTCORP OF SOUTHERN NEVADA
3 for collections.

4 12. On August 30, 2017, DEFENDANT DONNA ARMENTA, ESQ. on behalf of
5 DEFENDANT RICHLAND HOLDINGS sued PLAINTIFF for “breach of contract” and “monies
6 due and owing” in Justice Court, Las Vegas Township in a case entitled *Richland Holdings Inc.*
7 *d/b/a AcctCorp of Southern Nevada vs. Mary P. Thomas*, Case No. 17C018524.

8 13. As of August 31, 2017, DEFENDANTS had incurred an unknown amount in
9 attorneys’ fees and \$74.00 in costs.

10 14. On January 8, 2018, the trial court granted DEFENDANTS’ motion to extend time
11 for service and service by publication.

12 15. On March 15, 2018, DEFENDANTS mailed or caused to be mailed copies of all
13 pleadings to PLAINTIFF at her home address.

14 16. Included with the pleadings were two initial collections letters entitled “NOTICE
15 OF DEFENDANT UNDER THE F.D.C.P.A.” True and correct copies of the collection letters are
16 attached hereto as **Exhibit 1**.

17 17. The collection letters are identical with the only difference being the amount of the
18 alleged debt owed.

19 18. The first letter provides:

20 Please be advised as to the following pursuant to the Fair Debt Collection Practices
21 Act, 15 U.S. Code §1692g:

- 22 (1) the amount of the debt: \$90.00, plus interests, costs and attorney’s fees incurred as
23 set forth in the Complaint served in this matter.
24 (2) the name of the creditor to whom the debt is owed: Richland Holdings, Inc. Dba
25 AcctCorp of Southern Nevada as Assignee of GERETY & ASSOCIATES Address:
26 4955 S. Durango Suite 177, Las Vegas Nevada 89113. Telephone: (702) 240-3007.

1 19. The second collection letter is for “\$515.00, plus interests, costs and attorney’s fees
2 incurred as set forth in the Complaint served in this matter.”
3

4 20. Neither letter identifies the amount of interest, attorney’s fees and/or costs incurred
5 as of the sending of the letter.
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7 21. Had PLAINTIFF wished to repay the total outstanding debt owed, she would not
8 have known the total amount of the alleged debt.
9

10 22. DEFENDANTS created, approved, directed, and supervised the preparation and
11 sending of letters in the form of Exhibit 1.
12

DEFENDANTS’ ROUTINE PRACTICES

13 23. It is and was the routine policy and practice of DEFENDANTS to send letters in
14 the form of Exhibit 1.
15

CLASS ACTION ALLEGATIONS

16 24. PLAINTIFF repeats, re-alleges, and incorporates by reference paragraphs 1 through
17 23 inclusive, above.
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19 25. This action is brought on behalf of a class of similarly situated persons defined as
20 (i) all Nevada residents to whom DEFENDANTS sent an initial collection letter in the form of
21 Exhibit 1 (ii) which was not returned as undeliverable (iii) in an attempt to collect a debt incurred
22 for personal, family, or household purposes as shown by DEFENDANTS or the creditors’ records
23 (iv) which did not identify the amount of interest, attorney’s fees and/or costs incurred as of the
24 sending of the letter (v) during the one year prior to the filing of this lawsuit.
25

26 26. Based on DEFENDANTS’ use of documents in the form of Exhibit 1, the class is
27 so numerous that joinder of all members is impractical. There are questions of law and fact
28 common to the class, which common questions predominate over any issues involving only
individual class members. The principal legal question is whether DEFENDANTS’ initial
29

collection letters in the form of Exhibit 1, which fail to identify the amount of interest, attorney's fees and/or costs incurred as of the sending of the letter, violated 15 U.S.C. §§ 1692g(a).

27. Plaintiff's claims and those of the class are based on the same facts and legal theories.

28. Plaintiff will fairly and adequately represent the interests of the class members.

29. Plaintiff has retained counsel experienced in class actions and debt collection abuse cases.

30. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Individual cases are not economically feasible.

31. Certification of the Class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is appropriate in that:

- (a) The questions of law or fact common to the members of the Class predominate over any questions affecting only individual members; and
 - (b) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

FIRST CLAIM FOR RELIEF

**VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692g(a)
BROUGHT BY PLAINTIFF INDIVIDUALLY
AND ON BEHALF OF THE CLASS**

32. PLAINTIFF repeats, re-alleges, and incorporates by reference paragraphs 1 through
31 inclusive, above.

33. Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall...send the consumer a written notice containing...the amount of the debt.” 15 U.S.C. §1692g(a)(1).

34. On August 30, 2017, DEFENDANTS sued PLAINTIFF for breach of contract.

35. As of August 31, 2017, DEFENDANTS had incurred an unknown amount in attorneys' fees and \$74.00 in costs.

36. Unable to effectuate personal service, DEFENDANTS' obtained an order to serve PLAINTIFF by publication.

37. Service by publication caused **DEFENDANTS** to incur additional costs.

38. On March 15, 2018, DEFENDANTS mailed or caused to be mailed two initial collections letters entitled "NOTICE OF DEFENDANT UNDER THE F.D.C.P.A." Exhibit 1.

39. The letters seek collection of \$90.00 and \$515.00 respectively “plus interests, costs and attorney’s fees incurred as set forth in the Complaint served in this matter.”

40. Neither letter identifies the amount of interest, attorney's fees and/or costs incurred as of the sending of the letter.

41. Thus, DEFENDANTS failed to identify the total amount of debt owed. See e.g., *Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, LLC*, 214 F.3d 872, 875 (7th Cir.) (holding “The unpaid balance is not the debt; it is only a part of the debt; the Act requires statement of the debt.”).

42. Had PLAINTIFF wished to repay the total outstanding debt owed, she would not have known the total amount of the alleged debt.

43. It was necessary for PLAINTIFF to obtain the services of an attorney.

DEMAND FOR JURY TRIAL

44. Please take notice that PLAINTIFF demands trial by jury in this action.

REQUEST FOR RELIEF

WHEREFORE, PLAINTIFF respectfully requests that this Court grant the following relief in PLAINTIFF's favor, and on behalf of the class, and that judgment be entered against DEFENDANTS for the following:

- 1 (1) Certify this matter to proceed as a class action pursuant to Rule 23;
- 2 (2) For statutory damages awarded to PLAINTIFF, not to exceed \$1,000, pursuant to
- 3 15 U.S.C. § 1692k(a)(2)(A);
- 4 (3) For statutory damages awarded to the Class Members, pursuant to 15 U.S.C. §
- 5 1692k(a)(2)(B), of the amount not to exceed the lesser of \$500,000 or 1 per centum
- 6 (1%) of the net worth of the DEFENDANTS;
- 7 (4) For reasonable attorneys' fees for all services performed by counsel in connection
- 8 with the prosecution of these claims;
- 9 (5) For reimbursement for all costs and expenses incurred in connection with the
- 10 prosecution of these claims; and
- 11 (6) For any and all other relief this Court may deem appropriate.

14 DATED this 29th day of May 2018.

15 */s/ Keren E. Gesund, Esq.*
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